

Exhibit 1

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

UNITED STATES OF AMERICA

08 CR 212 (BMC)

-against-

AFFIDAVIT

RAFAEL PANTOJA,

Defendant.

-----X

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

ABDALLAH OSMAN, being duly sworn, deposes and says:

1. I am an employee at the Brooklyn House Residential Reentry Center (RRC), where Mr. Pantoja currently resides. Specifically, I am the defendant's case manager and I oversee the defendant's housing and ensure that he complies with the policies and procedures of the RRC. Mr. Pantoja has been compliant with RRC rules and regulations since he arrived at the RRC on 7/31/18. He has received has had only one incident report dated ~~11/27/18~~, which remains pending.

11/22/18 A.O.
11/27/18 A.O.

2. Mr. Pantoja is accomplishing the goals in his Individualized Reentry Plan (IRP), which I prepared, an indication of compliance. Mr. Pantoja has complied with the Court's Order and has made his subsistence payments through 12/6/18.

3. In my role as case manager, I have the authority to recommend passes for residents to leave the RRC for approved locations. Once a pass is issued, the resident is permitted to be away from the RRC for the purpose stated in the pass, i.e. attorney/medical. Residents seeking to leave the RRC on a pass are required to have a cellular telephone so that they can

DEX1

check-in and be reached when they are away from the facility.

4. Mr. Pantoja arrived at the RRC on July 31, 2018, and was provided with a copy of the policies and procedures manual upon entry, he also went through the intake process, where the rules were explained to him.

5. On August 10, 2018, Mr Pantoja obtained employment as a construction expeditor for Patin Build & Design, 315 Madison Avenue, Suite 3024, New York, New York, a position which was approved by the Department of Probation on August 30, 2018. This employment required Mr. Pantoja to travel to various related locations which were not listed on any specific pass request as travel might be needed on short notice. Consequently, in order to facilitate Mr. Pantoja's employment, all his pass requests through his last subsistence payment (on November 23, 2018) were classified as "Movement Request Passes"-meaning he could move from one location to location, i.e. from job site to job site, attorney office to attorney office, medical office to medical office, DOB office to DOB office, etc.

6. On 9/18/18, I informed FPO Enciso that Mr. Pantoja's employer was changing corporate offices. I also informed him of the new (212) telephone number for that company. I also informed him that Mr. Pantoja at the time was working on a project in the Bronx. When present at the 216th project, Mr. Pantoja would call me and I would hear the construction noise there in the background.

7. Because of Mr. Pantoja's employment, he was permitted to use his cellular telephone to call with the locations of where his work required him to be, thus keeping RRC aware of his whereabouts and activities while out on a Movement Request Pass.

8. Beginning August 10, 2018, all of Mr. Pantoja's pass requests, spanning the majority of the six-month period during which the defendant was required to reside at the RRC

were listed as "Movement Request Passes".

9. The report on offender supervision submitted by the Department of Probation on September 7, 2018 acknowledged that Mr. Pantoja required moving passes from RRC as of that date, due to the nature of his employment, Mr. Pantoja "...provided the undersigned [Enciso] with the locations that his employment required him to go to as well as pay stubs from his employer".

10. In an email correspondence dated 8/27/18, the probation officer indicated that Mr. Pantoja's passes required him to move around and asked whether he would be at a particular location during the day. The probation officer also asked if he is required to check in at all during the day from different locations and the response from me was: "No".

11. In a separate report on offender supervision, dated August 22, 2018, Probation permitted the defendant to perform work on his personal civil lawsuits on Saturdays, including September 8, September 15, and September 22, 2018.

12. The RRC has never notified the defendant that his Movement Pass Requests were ever changed or terminated in any way.

13. I didn't receive any RRC referral form from the Probation Department outlining what restrictions Mr. Pantoja was subject to while at the RRC.


ABDALLAH OSMAN

Sworn to before me the
6th day of December, 2018


NOTARY PUBLIC

LOURYS TEJADA
Notary Public, State of New York
No. 01TE6218926
Qualified in New York County
Commission Expires 8/15/22